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**FISCAL IMPACT STATEMENT**

**LS 6917**

**BILL NUMBER:** SB 264

**NOTE PREPARED:** Feb 20, 2007

**BILL AMENDED:** Feb 15, 2007

**SUBJECT:** Habitual Offender.

**FIRST AUTHOR:** Sen. Walker

**FIRST SPONSOR:** Rep. Goodin

**BILL STATUS:** As Passed Senate

**FUNDS AFFECTED:** ☒ **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) The bill provides that the state may seek to have a person sentenced as a habitual offender by alleging and proving that the person has accumulated at least two prior unrelated felony convictions. It specifies that the state may use the same prior unrelated felony convictions in a later habitual offender proceeding that were used in an earlier habitual offender proceeding. It permits the state to introduce the person's entire criminal history in the habitual offender sentencing hearing.

It removes a provision from the existing habitual offender law providing that certain drug convictions are not considered prior convictions for purposes of the habitual offender law and provides that, if a person's current conviction and all prior convictions are for certain drug offenses, the person may not be charged as a standard habitual offender. The bill also permits a person to be charged as a habitual drug offender if the person is convicted of certain drug offenses and has three prior unrelated drug offenses.

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:** (Revised) Under current law, the state may seek to have an offender sentenced as a habitual offender if the person has accumulated two prior unrelated felony convictions. The bill separates felony drug offenses from other felony offenses. For felony drug offense, an offender could be a habitual offender if the person committed three prior offenses with each new offense occurring after a sentencing for the prior offense. For other felony offenses, the bill changes the requirement to 'at least' two prior unrelated felonies. There are no data to indicate if the state would seek to have fewer offenders sentenced as habitual offenders if there may be more prior unrelated offenses accumulated for either drug offenders or other felony offenders.

Also, under the bill, the state may introduce evidence of the person's prior criminal convictions and use previously offered convictions to prove habitual offender status in the current proceedings. To the extent that the bill codifies procedures already used by the courts, the bill would have minimal fiscal impact. However, if more offenders are found to be habitual offenders as a result of the broader criteria, costs for incarceration could increase.

*Background on Habitual Offenders:* The sentence for a habitual offender is an additional fixed term of incarceration that is not less than the advisory sentence (the midpoint between the minimum and maximum sentence) for the underlying offense or greater than three times the advisory sentence for the underlying offense. The additional term may not exceed 30 years.

As of December 1, 2006, there were 1,523 offenders in Department of Correction facilities sentenced as habitual offenders. The following table shows the number of offenders sentenced as habitual offenders by felony class and the average additional fixed sentence.

Felony Class	Number of Habitual Offenders	Average Additional Fixed Term (Years)*
A	224	74.1
B	637	34.9
C	401	16.7
D	147	7.4
Murder	113	99.0
Habitual Offender	1	45.0

**Explanation of State Revenues:**

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:**

**Information Sources:**

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